

§ 25.94

the bond by computing 10 percent of the amount of tax at the rates prescribed by law, on the maximum quantity of beer used in the production of concentrate during a calendar year. The brewer shall add this amount to the penal sum calculated under paragraph (a) of this section to determine the total penal sum of the brewer's bond.

(c) *Maximum and minimum penal sums.* The maximum penal sum of the bond (or total penal sum if original and strengthening bonds are filed) is not to exceed \$150,000 when the tax on beer is to be prepaid, or \$500,000 when the tax is to be deferred as provided in § 25.164. The minimum penal sum of a bond is \$1,000.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

[T.D. ATF-224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. TTB-41, 71 FR 5603, Feb. 2, 2006; T.D. TTB-89, 76 FR 3511, Jan. 20, 2011; T.D. TTB-94, 76 FR 52862, Aug. 24, 2011; T.D. TTB-109, 77 FR 72941, Dec. 7, 2012]

EFFECTIVE DATE NOTE: By T.D. TTB-109, 77 FR 72941, Dec. 7, 2012, § 25.93 was amended by removing the word "For" in the first sentence after the heading and replacing it with the words "Except as provided in paragraph (a)(3) of this section, for" and by adding a new paragraph (a)(3), effective from Dec. 7, 2012, through Dec. 7, 2015.

§ 25.94 Strengthening bonds.

(a) *Requirement.* When the penal sum of the brewer's bond (calculated as provided in § 25.93) in effect is not sufficient, the principal may prepay the tax on beer as provided in subpart K of this part, or give a strengthening bond in sufficient penal sum if the surety is the same as on the bond in effect. If the surety is not the same, a new bond covering the entire liability is required.

(b) *Restrictions.* A strengthening bond may not in any way release a former bond or limit a bond to less than the full penal sum.

(c) *Date of execution.* Strengthening bonds will show the current date of execution and their effective date.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.95 New bond.

The appropriate TTB officer may at any time, at his or her discretion, re-

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quire a new bond. A new bond is required immediately in the case of insolvency of a surety. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity shall execute a new bond or obtain a consent of surety on all bonds in effect. When the interests of the Government so demand, or in any case when the security of the bond becomes impaired for any reason, the principal will be required to give a new bond. When a bond is found to be not acceptable by the appropriate TTB officer, the principal will be required immediately to obtain a new and satisfactory bond or discontinue business.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.96 Superseding bond.

When the principal submits a new bond to supersede a bond or bonds in effect, the appropriate TTB officer, after approving the superseding bond, will issue a notice of termination for the superseded bond under the provisions of this subpart. Superseding bonds will show the current date of execution and their effective date.

§ 25.97 Continuation certificate.

If the contract of surety between the brewer and the surety on an expiring bond or continuation certificate is continued in force for a succeeding period of not less than 4 years from the expiration date of the bond or continuation certificate, the brewer may submit, in lieu of a new bond, a Brewer's Bond Continuation Certificate on Form 5130.23, executed under the penalties of perjury, by the brewer and the surety attesting to continuation of the bond. Each continuation certificate will constitute a bond and all provisions of law and regulations applicable to bonds on Form 5130.22 given under this part, including the disapproval of bonds, are applicable to continuation certificates.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.98 Surety or security.

(a) *Bond coverage.* Bonds required by this part will be given with corporate surety or collateral security.